

## REMARKS

In the Office Action dated December 19, 2005, claims 1-3, 5-18 and 23-30, in the above-identified U.S. patent application were rejected. Reconsideration of the rejections is respectfully requested in view of the above amendments and the following remarks. Claims 1-3, 5-18 and 23-30 remain in this application, claims 4 and 19-22 have been canceled and new claims 31- 32 have been added to the application.

Applicants thank the Examiner for the interview of January 12, 2006 during which the prior art rejections were discussed. During the interview, the Examiner indicated that the term "eluting" implies column chromatography. This term has been deleted from the claims. Regarding the determination of the analyte, any known immunoassay method can be used as pointed out on page 6 of the present application. However, dependent claims have been added to the application which recite a capture or detection system for isolating and/or detecting any complexes of said first binding partner and the analyte or any uncomplexed first binding partner. A capture system is not always required as discussed on page 7, lines 20-27. If a capture zone is used, it can contain immobilized analyte or analyte analogs to capture any unbound binding partner. The complexes of the first binding partner and the analyte would continue to move to the detection zone where they would be detected without being captured. New claim 31 recites such a capture matrix as disclosed on page 7 of the present application. New claim 32 recites a capture

system for isolating the analyte and first binding partner complex as disclosed on page 9 of the present application.

Claims 1-8, 15-18 and 23-27 were rejected under 35 USC §103(a), as unpatentable over Scholtissek in view of Abuknesha. As discussed during the interview, Scholtissek discloses a detection method and apparatus wherein a carrier is provided which contains an opaque subregion with an immobilized analyte binding partner bound to a labeled tracer. The sample (e.g. a gaseous medium) is passed through the carrier and the analyte contained in the carrier is selectively absorbed by binding to the immobilized binding partner. This leads to a displacement of the labeled tracer which is subsequently analyzed in a transparent subregion of the carrier.

Thus, Scholtissek's device does not contain a first binding partner of the analyte in an elutable form and a complex consisting of the analyte and the first binding partner and uncomplexed first binding partner is not eluted from Scholtissek's device.

Abuknesha does not cure the deficiencies in Scholtissek as no complex consisting of an analyte and an analyte binding partner or any uncomplexed binding partner is eluted from the carrier in Abuknesha either. In addition, Abuknesha requires, as an essential feature, the presentation of a portion of the carrier to the detector to permit immunological analysis of the sample for analyte species. Thus, no substance whatsoever is eluted or moved from the carrier.

Thus, none of the prior art references discloses or suggests the elution of a complex between analyte and analyte binder from a first carrier matrix in order to

allow isolation (claim 1) or detection (claims 3 and 23) of a location which is different from the first carrier matrix. As pointed out above, neither Scholtissek nor Abuknesha allows analyte elution from the carrier matrix. The present claims have been amended to further clarify that the first binding partner of the analyte is not bound to said carrier matrix and that a buffer is applied which wets the matrix and causes any complexes of said first binding partner and the analyte and any uncomplexed first binding partner to move to a detection zone. In view of the above discussion, applicants contend that the combination of Scholtissek and Abuknesha does not render the presently claimed invention obvious and request that this rejection be withdrawn.

Claims 9-12 and 28-30 were rejected under 35 USC §103(a) as unpatentable over Scholtissek in view of Abuknesha further in view of Schlipfenbacher. As discussed above, the combination of Scholtissek and Abuknesha does not suggest the use of a buffer to wet the matrix and cause any complexes of said first binding partner and the analyte and any uncomplexed first binding partner to move to a detection zone in order to allow isolation or detection at a location which is different from the first carrier matrix. Schlipfenbacher does not cure this deficiency as Schlipfenbacher discloses a conventional test carrier for analyses of a sample liquid. There is no suggestion to use the test carrier for the determination of an analyte from a gaseous phase. In addition, Schlipfenbacher does not suggest or disclose an elutable binding partner for the analyte or isolation or detection at a location which is different from the first carrier matrix. In view of the above discussion, applicants request that this rejection be withdrawn.

Attached to this response are pictures of a Securetec system which may further clarify the invention.

Applicants respectfully submit that all of claims 1-3, 5-18 and 23-32 are now in condition for allowance. If it is believed that the application is not in condition for allowance, it is respectfully requested that the undersigned attorney be contacted at the telephone number below.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fee for such an extension together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 02-2135.

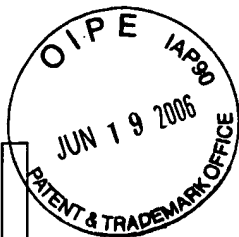
Respectfully submitted,

By



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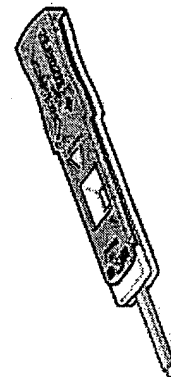
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  - Opiates
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**SECURETEC**



Adapter

Cassette  
Holder

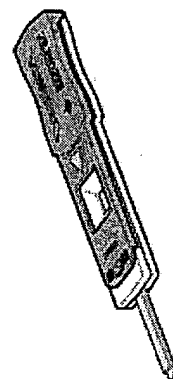
Test Cassette

Tubing

Vacuum  
Unit

Transport  
Case

- ◆ Install DrugCon System
- ◆ Take Sample
- ◆ Run DrugCon Test  
Cassette
- ◆ Read Test Result
- ◆ Decision on next step



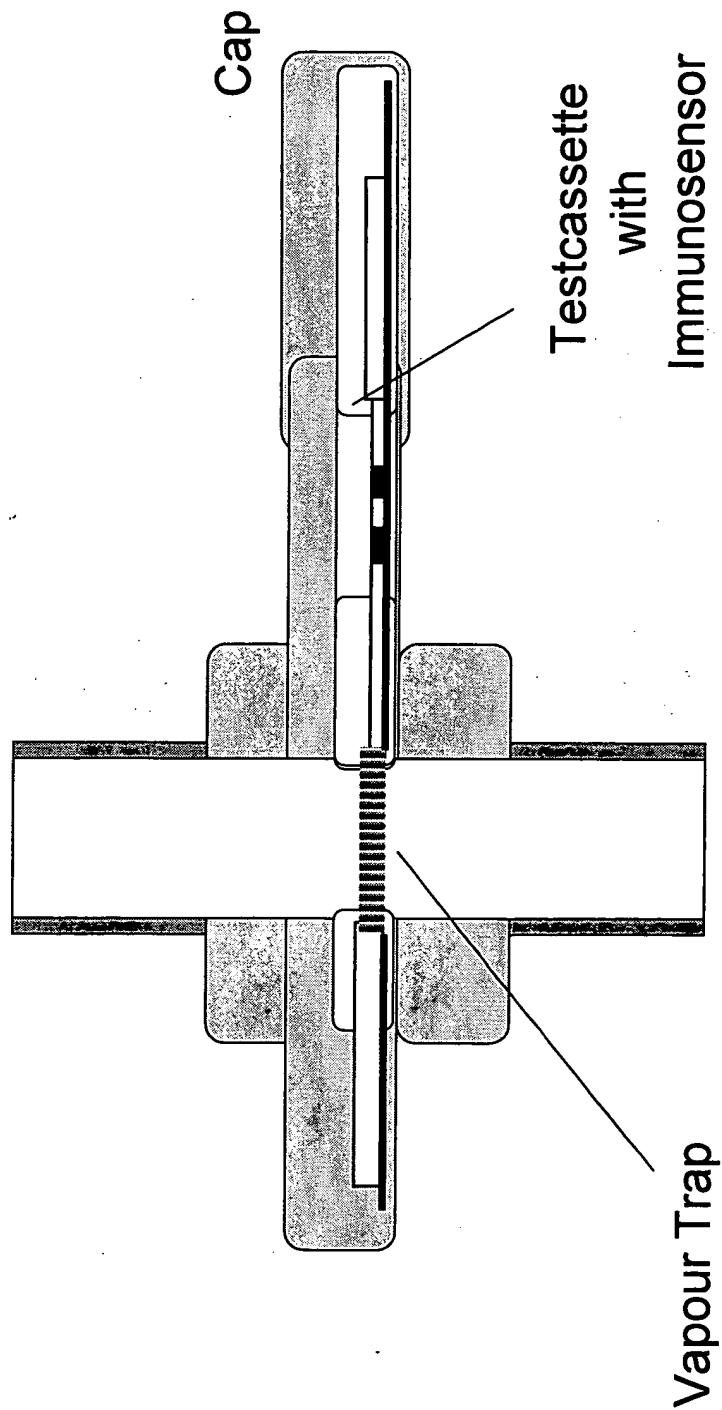
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# Cross Section - Cassette Holder



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Air Sample from Container



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